IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1505 OF 2005

Smt. Neela Satish Deshpande ... ...
Petitioner.

Versus

Union of India & Ors. ... . Respondents.

Mr. A. V. Anturkar i/by Mrs. Vinita V. Bakre-Shastry
for the Petitioner.

Mr. Ravi Shetty with Mr. R. C. Master for Respondents.

CORAM: DALVEER BHANDARI, C.J. &

S. A. BOBDE, J.

DATED : MARCH 28, 2005.

P.C. :

The petitioner is aggrieved by the order dated 5th July,

2004 passed by the Central Administrative Tribunal. The Disciplinary Authority by order dated 20th July, 2001 imposed penalty of compulsory retirement. By order dated 4th February, 2002 the Appellate Authority confirmed the order of compulsory retirement. By order dated 30th October, 2002 the Appellate Authority declined to consider the revision as the powers have been delegated to Respondent No.2. Hence this petition.

2. The petitioner was working as a Lower Division Clerk with the Ministry of Defence, Collectorate of Quality Assurance (Administrative), Pune, respondent No.3. In the inquiry which was conducted by Brig. Balyan, it is mentioned that during the preceding 11 years, she availed of leave / remained unauthorisedly absent from duty as under:-

(a)	1987	-	166 days
(b)	1988	-	137 days
(c)	1989	-	206 days

(d)	19990	-	46 days
(e)	1991	-	31 days
(f)	1992	-	38 days
(g)	1993	-	157 days
(h)	1994	-	122 days
(i)	1995	-	239 days
(j)	1996	-	361 days
(k)	1997	-	168 days upto 17 June.

It is also mentioned that such absenteeism of the petitioner defeats the very purpose of her employment in Government service. After having considered all facts and circumstances of the case in totality, the Brig. Balyan came to the conclusion that her continuity in Government Service will not serve any purpose and she was ordered to be compulsorily retired from the service from the date of issue of the said order with both the pension and gratuity admissible.

3. Against that order of compulsory retirement, the petitioner moved the Central Administrative Tribunal, Mumbai. It is mentioned in the impugned order dated 5th July, 2004 that the petitioner continued to remain unauthorisedly absent even after issue of charge sheet and also during the course of inquiry and that the petitioner has not followed the procedure in sending medical unfit certificate and fitness certificates to enable the department to get examined the nature of illness by the medical authority. The contention of the learned Counsel for the petitioner that she was not given an opportunity to lead defence evidence is devoid of any merit. In the instant case the petitioner has not followed the procedure for her continuous absence. She did not send medical certificate. Therefore, any further opportunity of leading defence evidence could not have really improved the case of the petitioner. Apart from this argument, the petitioner's conduct during the 11 years when she remained on unauthorised leave or availed of leave clearly demonstrates that she is not worthy of

remaining in Government service. Hence the order of compulsory retirement from service is absolutely just, fair and proper.

4. In the facts and circumstances of the case, this petition being devoid of any merit is hereby dismissed.

Sd/-

CHIEF JUSTICE

Sd/-

S. A. BOBDE, J.